



In the
RESERVE BANK OF INDIA
Foreign Exchange Department
5th floor, Amar Building
P M Road
Mumbai - 400 001

Present
Sharmila Thakur
General Manager

Date: May 09, 2019
CA No 4817 / 2018

In the matter of
Rajiv Maheshwari
156 Golf Links
New Delhi - 110003
(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the application dated November 6, 2018 (received in the Reserve Bank on November 16, 2018), for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is Regulation 20A read with Para D(1) of Schedule V of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time (hereinafter referred to as Notification No FEMA 120-RB 2004).

2. The relevant facts of the case are follows:

The applicant is a resident individual who set up a wholly owned company by name of Rake Semiconductors Ltd in Hong Kong on June 7, 2017 for trading in semi conductors and allied electronic products. He remitted USD 45,178.38 on September 19, 2017 and USD 1,00,000 on September 21, 2017 under LRS towards equity



capital of the overseas entity without submitting Form ODI-I to the concerned Authorised Dealer (AD) bank. It was when the applicant wished to make further remittance and the bank asked for the Unique Identification Number (UIN) that he realised that the ODI Form had to be filed within 30 days of remittance. The said forms were filed with the AD bank on February 17, 2018 and reported in the online application of RBI the same day with a delay of approximately 4 months generating the mandatory UIN.

3. According to Regulation 20A read with Para D(1) of Schedule V of Notification No FEMA 120-RB 2004 as amended from time to time, the resident individual, making overseas direct investments under the provisions of this Schedule, shall submit Part I of the Form ODI, duly completed, to the designated authorised dealer, within 30 days of making the remittance.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/6392/15.20.67/2018-19 dated April 26, 2019. However, the applicant did not avail of the opportunity for personal hearing on the grounds that he had nothing to add to what he had already submitted in writing. Vide mail dated May 4, 2019, the applicant stated that the contravention was completely inadvertent, unintentional and due to lack of knowledge of procedure, as it was the first time he was undertaking such a venture.

5. It has been declared in the compounding application dated November 6, 2018 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration dated Nov 6, 2018, furnished with the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority



under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

6. I have carefully considered the documents on record and submission made by the applicant in his application. Accordingly, I hold that the applicant has contravened the provisions of Para D(1) of Schedule V of Notification No FEMA 120-RB 2004 as amended from time to time. The amount and period of contravention is as follows. The equity remittances of USD 145,178.38 equivalent to INR 93,50,000 were made in September 2017 and finally reported to RBI on February 17, 2018. The delay for reporting was approximately 4 months.

7. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, taking into account the relevant facts and circumstance of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount of Rs. 96,750/- (Rupees Ninety Six thousand Seven Hundred and Fifty only) will meet the ends of justice.

8. Accordingly, I compound the admitted contravention namely, the contravention of Regulation 20A read with Para D(1) of Schedule V of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004, as amended from time to time, by the applicant, based on the facts discussed above in terms of Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of Rs. 96,750/- (Rupees Ninety Six thousand Seven Hundred and Fifty only) which shall be deposited by the applicant with the Reserve Bank of India, 5th Floor, Amar Building, Sir P M Road, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at "Mumbai" within a period of 15 days from the date of the order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 shall apply. The application is disposed accordingly.

Dated this 09th day of May 2019.



FED, CEFA
Rajiv Maheshwari
C.A. No.4817/2018

Sd/-
(Sharmila Thakur)
General Manager